

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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Marhone,

Plaintiff,

**ORDER**

-against-

16 Civ. 4733 (NSR)(AEK)

Cassel, et al.,

Defendants.

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**THE HONORABLE ANDREW E. KRAUSE, U.S.M.J.<sup>1</sup>**

Pro Se Plaintiff Conrad Marhone filed this action bringing claims under 42 U.S.C. § 1983 for violations of his rights under the First, Eighth, and Fourteenth Amendments. Following the Court's decision on Defendants' motion to dismiss the amended complaint, only one claim remains in the case—an Eighth Amendment claim against Defendant Superintendent Joseph Smith based on the light and noise conditions in the Special Housing Unit (SHU) at Shawangunk Correctional Facility. See ECF No. 48. Plaintiff has filed a motion for reconsideration of the decision on the motion to dismiss, ECF. No. 117, which is opposed by Defendants, ECF No. 125.<sup>2</sup> Currently before the Court is Plaintiff's second motion for appointment of counsel. ECF No. 133. The prior motion was denied, ECF No. 11, and Petitioner has presented no change in circumstances that would warrant granting his motion at this time. With respect to the merits of

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<sup>1</sup> This case was reassigned to the undersigned on October 15, 2020.

<sup>2</sup> Defendants consented to Plaintiff filing a second amended complaint based on Plaintiff's representation that the second amended complaint was not intended to raise new claims. ECF No. 96. But although the second amended complaint does not raise new claims, it is virtually identical to the amended complaint (except for the inclusion of a few additional exhibits), reasserting the claims that, and renaming the defendants who, had previously been dismissed by the Court. Compare ECF No. 19 with ECF No. 97.

the case, only one claim remains, and it is as yet unknown whether the motion for reconsideration will be granted and any of Plaintiff's claims reinstated. Moreover, Plaintiff has failed to demonstrate an inability to litigate this case without an attorney's assistance.

Therefore, I deny Plaintiff's second motion for appointment of counsel, ECF No. 133, without prejudice to renew if subsequent submissions or proceedings demonstrate that such appointment is warranted.

Dated: November 4, 2020  
White Plains, New York

**SO ORDERED.**

A handwritten signature in black ink, appearing to read "Andrew Krause", written over a horizontal line.

ANDREW E. KRAUSE  
United States Magistrate Judge

A copy of this Order has been mailed to Pro Se Plaintiff by Chambers